

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NANCY MONTTOYA,

Plaintiff,

v.

MICHAEL J. ASTRUE,
COMMISSIONER OF THE SOCIAL
SECURITY ADMINISTRATION,

Defendant.

NO. ED CV 08-1225 RSWL (FMO)

ORDER TO SHOW CAUSE

Pursuant to the court's Case Management Order, filed on September 12, 2008 ("Court's Order of September 12, 2008"), the parties were to engage in mandatory settlement procedures. Specifically, the court's order provides that "[w]ithin twenty-one (21) days of the date of service of a copy of the administrative record, plaintiff shall prepare and deliver to the Assistant United States Attorney ("AUSA") representing the Commissioner a written and detailed proposal of settlement." (Court's Order of September 12, 2008, at 3). The court's order also provides that "[w]ithin twenty-one (21) days of the filing of the answer, plaintiff's counsel shall prepare and deliver to the AUSA a draft of plaintiff's portion of the Joint Stipulation[.]" (*Id.* at 6).

On January 21, 2009, defendant served a copy of the administrative record on plaintiff's counsel. On March 17, 2009, defendant filed his Answer. On April 9, 2009, defendant filed a status report indicating that "[d]efendant has not yet received a settlement proposal despite

1 several courtesy reminders to Plaintiff's counsel to which counsel did not receive a response[]"

2 and that "[d]efense counsel has not received [plaintiff's portion of the Joint Stipulation] nor has she

3 received any communication from Plaintiff." (Defendant's Status Report, filed on April 9, 2009,

4 at 1 & 2).

5 Accordingly, IT IS HEREBY ORDERED THAT, on or before **May 4, 2009**, plaintiff shall

6 show cause, if any there be, why this action should not be dismissed for plaintiff's failure to

7 prosecute this action. **Plaintiff shall attempt to show such cause in writing by filing a**

8 **declaration signed under penalty of perjury. In particular, plaintiff's declaration must**

9 **address why plaintiff has not delivered a written proposal of settlement to defendant, even**

10 **though it was due over two months ago, and why plaintiff has not delivered her portion of**

11 **the Joint Stipulation to defendant, even though it was due on April 7, 2009. Failure timely**

12 **to file such a declaration or to show cause as ordered will result in dismissal of this action**

13 **for failure to prosecute.**

14 A declaration under penalty of perjury that plaintiff has served her portion of the

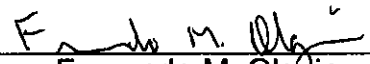
15 Joint Stipulation shall be a satisfactory response to the Order to Show Cause. However,

16 absent exceptional circumstances, no extensions will be granted for preparing and

17 submitting plaintiff's portion of the Joint Stipulation to defendant.

18 **IT IS SO ORDERED.**

19 Dated this 17 day of April, 2009.

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22 Fernando M. Olguin
23 United States Magistrate Judge
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